

## § 842.101

- 842.808 Oversight of coverage determinations.  
842.809 Transitional provisions.

### REGULATIONS PERTAINING TO NONCODIFIED STATUTES

- 842.810 Elections to be deemed a law enforcement officer for retirement purposes by certain police officers employed by the Metropolitan Washington Airports Authority (MWAA).  
842.811 Deposits for second-level supervisory air traffic controller service performed before February 10, 2004.

### Subpart I—Nuclear Materials Couriers

- 842.901 Applicability and purpose.  
842.902 Definitions.  
842.903 Conditions for coverage in primary positions.  
842.904 Conditions for coverage in secondary positions.  
842.905 Evidence.  
842.906 Requests from individuals.  
842.907 Withholding and contributions.  
842.908 Mandatory separation.  
842.909 Review of decisions.  
842.910 Oversight of coverage determinations.

AUTHORITY: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under Secs. 3 and 7(c) of Public Law 105-274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under Sec. 102(e) of Public Law 104-8, 109 Stat. 102, as amended by Sec. 153 of Public Law 104-134, 110 Stat. 1321-102; Sec. 842.107 also issued under Secs. 11202(f), 11232(e), and 11246(b) of Public Law 105-33, 111 Stat. 251, and Sec. 7(b) of Public Law 105-274, 112 Stat. 2419; Sec. 842.108 also issued under Sec. 7(e) of Public Law 105-274, 112 Stat. 2419; Sec. 842.109 also issued under Sec. 1622(b) of Public Law 104-106, 110 Stat. 515; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and Sec. 1313(b)(5) of Public Law 107-296, 116 Stat. 2135; Secs. 842.304 and 842.305 also issued under Sec. 321(f) of Public Law 107-228, 116 Stat. 1383, Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under Sec. 7001(a)(4) of Public Law 101-508, 104 Stat. 1388; Sec. 842.707 also issued under Sec. 6001 of Public Law 100-203, 101 Stat. 1300; Sec. 842.708 also issued under Sec. 4005 of Public Law 101-239, 103 Stat. 2106 and Sec. 7001 of Public Law 101-508, 104 Stat. 1388; Subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under Sec. 636 of Appendix C to Public Law 106-554 at 114 Stat. 2763A-164; Sec. 842.811 also issued under Sec. 226(c)(2) of Public Law 108-176, 117 Stat. 2529.

## 5 CFR Ch. I (1-1-10 Edition)

### Subpart A—Coverage

SOURCE: 51 FR 47197, Dec. 31, 1986, unless otherwise noted.

#### § 842.101 Purpose and scope.

(a) This subpart contains regulations concerning automatic coverage under the Federal Employees Retirement System (FERS). References to FERS coverage in this subpart are to automatic, as opposed to elective, FERS coverage.

(b) Part 846 of this chapter contains regulations concerning elective FERS coverage. FERS elections are available under limited circumstances to employees not subject to automatic FERS coverage.

[59 FR 64282, Dec. 14, 1994]

#### § 842.102 Definitions.

In this subpart—

*CSRS* means the Civil Service Retirement System as described in subchapter III of chapter 83 of title 5, United States Code;

*Employee* means the following individuals listed in 5 U.S.C. 8401(11) whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954:

(a) An employee as defined by 5 U.S.C. 2105;

(b) A U.S. Commissioner whose total pay for services performed as Commissioner is not less than \$3,000 in each of the last three consecutive calendar years ending after December 31, 1954;

(c) An individual employed by a county committee established under 16 U.S.C. 590h(b);

(d) An individual employed by Galaudet College;

(e) An individual appointed to a position on the office staff of a former President under section 1(b) of the “Act of August 25, 1958” (72 Stat 838);

(f) An alien (1) who was previously employed by the Government; (2) who is employed full time by a foreign government to protect or further the interests of the United States during an interruption of diplomatic or consular relations; and (3) for whose services reimbursement is made to the foreign government by the United States;

(g) A Congressional employee as defined in 5 U.S.C. 2107, including a temporary Congressional employee and an employee of the Congressional Budget Office; and

(h) The following individuals are excluded from the definition of "employee" in 5 U.S.C. 8401 (11):

(1) A justice or judge of the United States as defined by 28 U.S.C. 451;

(2) A temporary employee of the Administrative Office of the United States Courts or of a court named by 28 U.S.C. 610;

(3) A construction employee or other temporary, part-time, or intermittent employee of the Tennessee Valley Authority;

(4) A student employee as defined by 5 U.S.C. 5351;

(5) Teachers in dependents' schools of the Department of Defense in overseas areas with respect to Federal employment, other than teaching, performed during a recess period between two school years;

(6) An individual subject to another retirement system for Government employees (other than an employee of the United States Park Police, or the United States Secret Service) any of whose civilian employment after December 31, 1983, is employment subject to social security; and

(7) An individual excluded by OPM regulation in § 842.105.

*FERS* means the Federal Employees Retirement System as described in chapter 84 of title 5, United States Code.

*Member* has the same meaning provided in 5 U.S.C. 2106, except that the term does not include an individual who irrevocably elects, by written notice to the official by whom such individual is paid, not to participate in FERS.

*NAF employee* means an employee of an instrumentality described in section 2105(c) of title 5, United States Code.

*OPM* means the Office of Personnel Management.

*Social security* means coverage under the Old Age, Survivors, and Disability Insurance (OASDI) programs of the Social Security Act.

[51 FR 47197, Dec. 31, 1986, as amended at 52 FR 25197, July 6, 1987; 56 FR 4931, Feb. 7, 1991]

#### § 842.103 General.

To be covered under FERS, an individual must:

(a) Be an employee, Member, or specifically covered by another provision of law;

(b) Be covered by social security;

(c) Have retirement deductions withheld from pay and have agency contributions made; and

(d) Be paid based on units of time.

Except as provided in § 842.104 and as excluded by § 842.105, an employee or Member is covered by FERS.

#### § 842.104 Statutory exclusions.

(a) *Lack of social security coverage.* An individual not covered by social security (title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954), including an individual covered by full CSRS (and thereby excluded from social security coverage), is excluded from FERS coverage.

(b) *Senior officials subject to social security coverage despite continuous service.* An individual who has served without a break in service of more than 365 days since December 31, 1983, in one or more of the following positions is excluded from FERS coverage.

(1) The Vice President;

(2) A Member of Congress;

(3) A non-SES appointee to a position listed in 5 U.S.C. 5312 through 5317;

(4) A Senior Executive Service or Senior Foreign Service noncareer appointee; or

(5) An individual appointed by the President (or his designee) or the Vice President under section 105(a)(1), 107(a)(1), or (b)(1) of title 3, United States Code, to a position for which the maximum rate of basic pay payable is at or above the rate for Level V of the Executive Schedule.

(c) *Employees rehired after December 31, 1986, following a break in service.* An employee who is rehired after December 31, 1986, who has had a break in service and who, at the time of the last separation from the service, had at least 5 years of civilian service creditable under CSRS rules, any part of which was covered by CSRS or the Foreign Service Retirement System, is excluded from FERS coverage.

(d) *Employees who have not had a break in service ending after December 31,*